

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brent Michael Woody,

Civil No. 16-862 (DWF/BRT)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

United States Bureau of Prisons,
a United States Agency; Thomas R. Kane, Ph.D.,
in his official capacity as Acting Director of the
Federal Bureau of Prisons; Dr. Deborah G.
Schult, in her official capacity as the Assistant
Director for the Health Services Division of the
Federal Bureau of Prisons; Mitchel Holliday,
RD, USPHS, in his official capacity as the
Nutrition Specialist with the Health Services
Division of the Federal Bureau of Prisons; Sara
M. Revell, in her official capacity as the
Regional Director of the North Central Region of
the Federal Bureau of Prisons; Paul Harvey,
M.D., in his official capacity as the Regional
Medical Director for the North Central Region of
the Federal Bureau of Prisons; Leann LaRiva, in
her official capacity as the Warden of Federal
Medical Center-Rochester; Dr. Sheila Hadaway,
in her official capacity as the clinical director of
Federal Medical Center-Rochester; Dr. Lon
Krieg, in his official capacity as a treating
physician at Federal Medical Center-Rochester;
and Kathy Mayhew, in her official capacity as a
dietician at Federal Medical Center-Rochester,

Defendants.

This matter is before the Court upon Defendants' objections (Doc. No. 60) to
Magistrate Judge Becky R. Thorson's Amended Report and Recommendation (Doc.
No. 54) insofar as it recommends that Defendants' Motion to Dismiss be denied. The

Plaintiff filed a Memorandum in Opposition to Defendants' Objections on January 4, 2017. (Doc. No. 61.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendants' objections. In the Amended Report and Recommendation, the Magistrate Judge concluded that the Court may exercise jurisdiction over Plaintiff's Eighth Amendment claim and that Plaintiff states a claim under § 504 of the Rehabilitation Act.

The Court agrees with the Magistrate Judge and concludes that Defendants' objections offer no basis for a departure from the Magistrate Judge's recommendations. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendants' objections (Doc. No. [60]) to Magistrate Judge Becky R. Thorson's November 22, 2016 Amended Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Becky R. Thorson's November 22, 2016 Amended Report and Recommendation (Doc. No. [54]) is **ADOPTED**.

3. Defendants' Motion to Dismiss (Doc. No. [43]) is **DENIED**.

Dated: January 13, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Court